

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4637 of 2015 (D)

PETITIONER(S):

**M/S.SHALOM CHARITABLE MINISTRY OF INDIA,
(SHALOM TRUST), NO.59, SHALOM BHAVAN,
NURANI, PALAKKAD, REPRESENTED BY ITS
MANAGING TRUSTEE.**

BY ADV. SRI.VINOD KUMAR.C

RESPONDENT(S):

**1.BANK OF INDIA,
REPRESENTED BY ITS AUTHORISED OFFICER,
MID-CORPORATE BRANCH, COIMBATHOOR,
CHAMBER TOWERS, AVNASI ROAD, COIMBATHOOR.**

**2.JUSTUS DANIAL, NO.23, BATHE HEABER, NEAR KSRTC,
PALAKKAD.**

R-R1 BY ADV. SRI.JAWAHAR JOSE, SC, BANK OF INDIA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP.(C).NO.4637/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE APPLICATION FILED BEFORE THE CJM COURT, PALAKKAD AS C.M.P.NO.168/2015.

EXT.P2: COPY OF THE ORDER PASSED BY THE HONOURABLE CJM COURT, PALAKKAD IN CRL.M.P.NO.168/2015.

EXT.P3: COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE CJM COURT, PALAKKAD AS CRL.M.P.NO.528/2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4637 OF 2015 (D)

Dated this the 12th day of February, 2015

J U D G M E N T

The petitioner, is aggrieved by the steps for dispossession taken by the 1st respondent bank, for realisation of loan amounts availed by a private limited company, the Director of which company owns the property in which the petitioner is stated to be a lessee. It is the case of the petitioner that, while the 1st respondent bank has approached the Chief Judicial Magistrate Court, Palakkad through an application under Section 14 of the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, for the purposes of obtaining possession of the secured assets, the fact that the petitioner was a lessee in the property was not disclosed by the 1st respondent bank, and, hence, the Chief Judicial Magistrate, by Ext.P2 order, permitted the 1st respondent bank to take possession of the property. It is pointed out that, on coming to know of Ext.P2 order of the Magistrate, the petitioner has filed Ext.P3 application before the Chief Judicial Magistrate, Palakkad, pointing out the existence of the tenancy over the property in question and it is stated that the Chief Judicial Magistrate has posted the application for consideration on 18.2.2015. The limited prayer in the writ petition is

for a direction to the Chief Judicial Magistrate, Palakkad, to pass orders on Ext.P3 application, expeditiously, and till such time, to keep further steps for taking over possession of the secured assets, in abeyance.

2. I have heard Sri.C.Vinod Kumar, the learned counsel appearing for the petitioner as also Sri.Jawahar Jose, the learned Standing counsel appearing for the 1st respondent bank.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with a direction to the Chief Judicial Magistrate, Palakkad, to pass orders on Ext.P3 application preferred by the petitioner, before him, within a period of one month from the date of receipt of a copy of this judgment. It is made clear that till such time as orders are passed by the Magistrate, as directed in this judgment, coercive steps including taking over possession of the secured assets by the 1st respondent bank, shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp